

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SHERRY L. CLEMONS,

Plaintiff,

v.

BRADFORD O'NEIL AGENCY, LLC,

Defendant.

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: Civil Action No. 21-678
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NOTICE OF REMOVAL

Defendant O'Neil Insurance Agency, Inc. (improperly named as "Bradford O'Neil Agency, LLC") (hereinafter "O'Neil Agency"), by and through its counsel of record, hereby removes this action from the Circuit Court of St. Louis County, Missouri, to the United States District Court for the Eastern District of Missouri based on the grounds below:

The Removed Case

1. On March 31, 2021, Plaintiff Sherry L. Clemons ("Plaintiff") filed a Complaint ("the Complaint") in the Circuit Court of St. Louis County, Missouri, Case No. 21SL-CC01447, and styled *Sherry L. Clemons v. Bradford O'Neil Agency, LLC*.

2. The Complaint alleges a single cause of action, for violation of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227. (Complaint ¶¶ 40-45).

Basis for Removal Jurisdiction

3. Under 28 U.S.C. § 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed" by a defendant.

4. This Court has original jurisdiction over all civil actions arising under the laws of the United States, including those arising under federal statutes. 28 U.S.C. § 1331.

5. Plaintiff's claim under the TCPA arises under a federal statute and is therefore subject to removal under 28 U.S.C. § 1331. *See Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740 (2012) (holding that federal and state courts have concurrent jurisdiction over private suits arising under the TCPA).

Venue Is Proper

6. Pursuant to 28 U.S.C. § 1441(a) "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

7. The Circuit Court of St. Louis County, Missouri is located within the United States District Court for the Eastern Division of the Eastern District of Missouri. Therefore, removal to this Court is proper.

Papers From Removed Action

8. In accordance with Local Rule 2.03, attached hereto as Exhibit A is "a copy of all process, pleadings, orders and other documents then on file in the state court including a copy of the state court's docket sheet." The filing of such materials also complies with the requirement of 28 U.S.C. § 1446(a) that this Notice of Removal provide "a copy of all process, pleadings, and orders served upon" O'Neil Agency in the Circuit Court action.

Removal Is Timely

9. Pursuant to 28 U.S.C. § 1446(b)(1), the notice of removal “shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”

10. O’Neil Agency was served with the Summons and Complaint on May 14, 2021.

11. Accordingly, removal is timely pursuant to 28 U.S.C. § 1446(b) because thirty days has not elapsed since O’Neil Agency was served with the Complaint.

Notice to Plaintiff and State Court

12. Pursuant to 28 U.S.C. § 1446(d), O’Neil Agency is concurrently filing with the Circuit Court of St. Louis County, Missouri, a Notice of Filing of Notice of Removal. O’Neil Agency will concurrently serve Plaintiff with copies of this Notice of Removal and the Notice filed in the State Court Action.

13. As required by Local Rule 2.03, O’Neil Agency will file with this Court “proof of filing the notice with the Clerk of the State Court and proof of service on all adverse parties.”

14. In accordance with Local Rule 2.02, O’Neil Agency is contemporaneously filing a Civil Cover Sheet, an Original Filing Form and a Disclosure of Organizational Interests Certificate.

WHEREFORE, O’Neil Agency gives notice that the above-captioned action, currently pending in the Circuit Court of St. Louis County, Missouri, is hereby removed to this Court.

Dated: June 11, 2021

Respectfully submitted,

/s/ Patrick D. Cloud

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Attorneys for Defendant,

O’Neil Insurance Agency, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of June, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system. I further certify that on this 11th day of June, 2021, counsel for Plaintiff was served with copies of this Notice of Removal by first class mail and by transmitting a copy via e-mail to the following addresses:

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